

The Supreme Court of South Carolina

The State, Respondent,

v.

Freddie Eugene Owens, Appellant.

Appellate Case No. 2024-001397

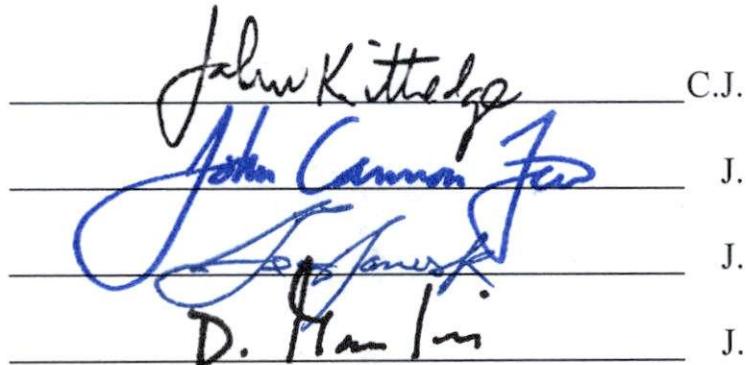
ORDER

Pursuant to section 24-3-530(B) of the South Carolina Code (Supp. 2023), Director Bryan Stirling of the South Carolina Department of Corrections (SCDC) has issued an affidavit stating electrocution, firing squad, and lethal injection are all available methods of execution from which Appellant may elect. Appellant objects to the sufficiency of the affidavit as to the availability of lethal injection, claiming it fails to provide the basic facts needed to assess the quality, reliability, potency, purity, and stability of the lethal injection drugs. He asks this Court to order Director Stirling to provide him with the actual report of the testing of the drugs and documentation of the drugs' beyond use date (BUD) and storage conditions.

The affidavit states the pentobarbital was tested by experienced, qualified, and duly authorized personnel at the Forensic Services Laboratory of the South Carolina Law Enforcement Division (SLED), which is internationally accredited, using widely accepted protocols and methodologies. That testing confirmed the concentration of the drugs and their purity and stability. A review by SCDC staff of the test results, along with data from the National Institutes of Health and information regarding lethal injection executions from other states and the federal government, revealed the dosage to be used by SCDC for lethal injection is sufficiently potent to result in death when administered in accordance with SCDC's protocol.

We deny Appellant's request to require Director Sterling to provide Appellant with SLED's testing report and documentation of the BUD and storage conditions of the drugs. The affidavit adequately explains "how [Director Stirling] determined the

drugs were of sufficient 'potency, purity, and stability' to carry out their intended purpose." *See Owens v. Stirling*, Op. No. 29222 (S.C. Sup. Ct. filed July 31, 2024) (Howard Adv. Sh. No. 29 at 18, 52). Further, the affidavit provides sufficient detail for Appellant to make an informed election of his method of execution and for Appellant and his attorneys to "understand whether there is a basis for challenging the constitutionality of the impending execution." *See id.* at 51.



John K. Kitchell C.J.
John Cannon, Jr. J.
John S. Zelenka J.
D. Alan Verdin J.

Verdin, J., not participating

Columbia, South Carolina
September 5, 2024

cc:

Alan McCrory Wilson
Melody Jane Brown
Donald J. Zelenka
Salley Wood Elliott
Gabrielle Amber Pittman
Joshua Snow Kendrick
Emily C. Paavola
Bryan Peter Stirling
Gerald W. King, Jr.